

REMARKS

Applicant has reviewed the Office Action dated February 21, 2003, and the references cited therewith.

Claims 1, 4, 5, 6, 13 – 15 and 17 - 20 are amended herein; as a result claims 1-6, 13 - 20 are now pending in this application.

Reintroduction of Erroneously Cancelled Claims

Applicant cancelled claims 7-12 and 21-29 without prejudice or disclaimer in the Amendment and Response filed November 25, 2002. However, that cancellation was erroneous and unnecessary, since claim 1 was deemed generic by the Election of Species Requirement dated August 28, 2002 and since claims 7-12 and 21-29 were withdrawn from consideration for prosecution of the generic claim. Applicant hereby reintroduces the cancelled claims as new claims 30–44, with the understanding that new claims 30-44 will be considered once examination of the elected species is completed.

Applicant regrets any inconvenience by the correction.

Clarification Amendments

Claims 4 – 6 and 17 – 20 were amended by the Applicant not to address the rejection by the Office Action, but to provide clarification to the relationship between R_L and R_R recited in the claims. The amendments are for clarification only and are believed to be non-narrowing.

§102 Rejection of the Claims

In the Office Action, claims 1 – 3, 15 and 16 were rejected under 35 USC § 102(e) as being anticipated by Taylor et al. (U.S. Patent No. 6,304,773, “Taylor”).

Applicant respectfully traverses the rejection because the Office Action fails to make out a proper *prima facie* case of anticipation since Taylor does not discuss every element of the claims of the present application. Detailed responses to the rejection follow:

Claim 1

Claim 1 was amended to include, among other things, calculating at least one suggested pacing site in which to provide pacing pulses from the one or more algorithms based on the first data value. Applicant respectfully traverses the rejection of claim 1. Applicant is unable to find in the cited portions of Taylor, among other things, suggesting a pacing site in which to provide pacing, as recited by claim 1.

Claim 1 includes, among other things, receiving a first data value into an external programmer from a pulse generator. Applicant is unable to find in the cited portions of Taylor a programmer, as recited by claim 1.

Claims 2 and 3

Applicant respectfully traverses the rejection of claims 2 and 3. Claims 2 and 3 are dependent to claim 1 and are believed to be allowable at least for the reasons stated for claim 1. Claim 3 recites, among other things, suggesting one or more ventricular chambers in which to provide pacing pulses. Applicant is unable to find a discussion of pacing pulses provided to one or more ventricular chambers in the cited portions of Taylor.

Claims 15 and 16

Applicant respectfully traverses the rejection of claims 15 and 16. Claims 15 and 16 relate to a medical device programmer as recited by the claims. Applicant is unable to find a medical device programmer discussed in the cited portions of Taylor. Applicant is also unable to find in Taylor, among other things, control circuitry that uses the first data value to calculate at least one suggested pacing site in which to provide pacing pulses, as recited in claim 15.

Applicant respectfully requests reconsideration and allowance of claims 1-3, 15 and 16.

Claims 1 – 3 and 14 - 16 were rejected under 35 USC § 102(e) as being anticipated by Sweeney et al. (U.S. Patent Publication No. 2002/0016550, “Sweeney”). Applicant respectfully traverses as follows:

Claim 1

Claim 1 was amended to better recite the present subject matter. Applicant respectfully traverses the rejection.

Applicant is unable to find in the cited portions of Sweeney, among other things, receiving a first data value into an external programmer from a pulse generator, calculating at least one suggested pacing site in which to provide pacing pulses based on the first data value, and displaying the at least one suggested pacing site in which to provide pacing pulses, as recited by claim 1.

Claims 2, 3 and 14

Applicant respectfully traverses the rejection of claims 2, 3, and 14. Claims 2, 3 and 14 are dependent on claim 1 and are believed to be allowable at least for the reasons stated for claim 1.

Applicant is unable to find in the cited portions of Sweeney, among other things, suggesting one or more ventricular chambers in which to provide pacing pulses, as recited in claim 3.

Claim 14 was amended to better describe the recited subject matter. Applicant respectfully traverses the rejection of claim 14. Applicant is unable to find in the cited portions of Sweeney, among other things, programming the suggested pacing sites in which to provide pacing pulses,” as recited in claim 14.

Claims 15 and 16

Claim 15 was amended to better recite the present subject matter. Applicant respectfully traverses the rejection of claims 15 and 16. Applicant is unable to find in the cited portions of Sweeney, control circuitry that uses the first data value to calculate at least one suggested pacing site in which to provide pacing pulses and a display screen to display the at least one suggested pacing site in which to provide pacing pulses, as recited by claim 15.

Claim 16 is dependent on claim 15 and is believed to be allowable at least for the reasons stated for claim 15.

Applicant respectfully requests reconsideration and allowance of claims 1-3 and 14-16.

§103 Rejection of the Claims

In the Office Action, claims 1 – 3 and 14 – 16 were rejected under 35 USC § 103(a) as being unpatentable over Cohen (U.S. Patent No. 5,174,289, “Cohen”).

The rejection asserts that Cohen discloses all of the claimed limitations but does not explicitly speak to a programmer displaying the one or more pulse generator settings, but that it would have been obvious to one skilled in the art to include a programmer that allowed for displaying the one or more pulse generator settings and for performing the algorithms for pulse generator settings.

Applicant respectfully traverses the rejection and traverses the assertion because the asserted combination would fail to yield the claimed subject matter. Detailed responses to the rejection follow:

Claim 1

Claim 1 recites, among other things, calculating at least one suggested pacing site in which to provide pacing pulses from the one or more algorithms based on the first data value, and displaying the at least one suggested pacing site in which to provide pacing pulses. Applicant is unable to find in the cited portions of Cohen a motivation or suggestion of calculating at least one suggested pacing site, as recited by claim 1.

The Office Action asserts that it is well known in the art to use a programmer to provide a caregiver with increased control and feedback of the patient’s status and pacemaker settings. Applicant traverses the assertion of what is “well known in the art” as a form of Official Notice and requests a reference to support such assertions pursuant to MPEP 2144.03, or their withdrawal in the next official communication.

Applicant respectfully requests reconsideration and allowance of claim 1.

Claim 15

Claim 15 was amended to better describe the recited subject matter. Claim 15 recites, among other things, a medical device programmer, comprising: ... control circuitry to calculate

at least one suggested pacing site in which to provide pacing pulses. Applicant is unable to find in Cohen a suggestion or motivation of control circuitry to calculate at least one suggested pacing site, as recited by claim 15. Applicant respectfully submits that the combination is lacking in this respect as well.

Applicant requests reconsideration and allowance of claim 15.

Claims 2, 3, 14 and 16

Applicant respectfully traverses the rejection of claims 2, 3, 14, and 16. Claims 2, 3 and 14 are dependent on claim 1, and claim 16 is dependent on claim 15. Claims 2, 3, 14 and 16 are believed to be allowable at least for the reasons stated for the base claims.

Applicant requests reconsideration and allowance of claims 2, 3, 14 and 16.

In the Office Action, claims 4 – 6 and 17 - 20 were rejected under 35 USC § 103(a) as being unpatentable over Cohen (U.S. Patent No. 5,174,289) in view of Struble (U.S. Patent No. 6,070,101).

Applicant respectfully traverses the rejection. The Office Action fails to make out proper *prima facie* obviousness because the proposed combination of Cohen and Struble fails to provide the recited subject matter.

Applicant is unable to find in the combination of Cohen and Struble among other things suggesting one or more ventricular chambers in which to provide pacing pulses based on the duration of the QRS complex, as recited by claim 3 of which claims 4-6 are dependent. Applicant is unable to find in the combination of Cohen and Struble, among other things, a medical device programmer as recited by claims 17-20.

Applicant repeats the discussions above for the base claims for the rejected claims and incorporates the discussions herein in support of the patentability of claims 4-6 and 17-20.

Applicant requests reconsideration and allowance of claims 4-6 and 17-20.

In the Office Action, claim 13 was rejected under 35 USC § 103(a) as being unpatentable over Cohen (U.S. Patent No. 5,174,289) or Taylor et al. (U.S. Patent No. 6,304,773, “Taylor”) or Sweeney et al. (U.S. Patent Publication No. 2002/0016550, “Sweeney”).

The rejection asserts that it would have been obvious to one of ordinary skill in the art to include receiving a request to display one or more pulse generator settings and displaying an estimated time to complete executing the algorithm since it was well known in the art to use a programmer to interface with the caregiver or medical practitioner and display or provide the caregiver or medical practitioner the data being analyzed, algorithm output, or estimated algorithm execution time to provide for a comprehensive review of the pulse generator in case of errors or an emergency and also allow the medical practitioner to document the pulse generator settings and patient status in the files.

Claim 13 was amended to better recite the present subject matter. Applicant respectfully traverses the rejection and the assertion. Claim 13 is dependent on claim 1. The defects of the rejection of claim 1 are respectfully repeated herein in the support of claim 13. Applicant traverses the assertion of “obvious to one of ordinary skill in the art” as a form of Official Notice and requests a reference to support such assertions pursuant to MPEP 2144.03, or its withdrawal in the next official communication.

Applicant respectfully requests reconsideration and allowance of claim 13.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-373-6912 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

PAR LINDH ET AL.

By their Representatives,

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Date July 21, 2003

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21st day of July, 2003.

Cecile Hanson
Name

Signature
Signature